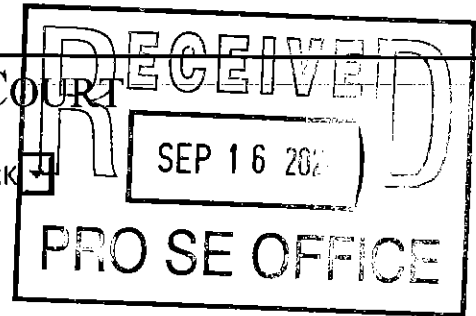


AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
SOUTHERN DISTRICT OF NEW YORK

ANDRES FERNANDO ARROYAVE-RAMIREZ

Petitioner

v.

FCI OTISVILLE
(WARDEN)

Case No.

24 CV 6985
(Supplied by Clerk of Court)*Respondent*

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**Personal Information**

1. (a) Your full name: ANDRES FERNANDO ARROYAVE-RAMIREZ
(b) Other names you have used: NONE
2. Place of confinement:
(a) Name of institution: FCI OTISVILLE, FEDERAL CORRECTIONAL INSTITUTION
(b) Address: P.O.BOX 1000, OTISVILLE, NY 10963
(c) Your identification number: 01507-104
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: US DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA
(b) Docket number of criminal case: 12:20032-CR-WILLIAMS
(c) Date of sentencing: 09/26/2014

☐ Being held on an immigration charge

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☒ Other (*explain*):

TITLE 21: 963 CONSPIRACY TO DISTRIBUTE FIVE KILOGRAMS OR MORE OF COCAINE KNOWING THAT IT WAS UNLAWFULLY IMPORTED INTO THE UNITED STATES.

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

FIRST STEP ACT EARNIG TIME CREDITS (ETC) WHICH ARE BEING GRANTED AT THIS MOMENT TO PETITIONER. PETITIONER REQUEST RESPECTFULLY FROM THIS COURT AN ORDER TO GET PROTECTION FROM THE BOP TO NOT REMOVE HIS ETC (EARNING TIME CREDITS) FROM THE FIRST STEP ACT, AS THE BOP IS DOING THIS ACTION TO MANY INMATES AT DIFFERENT FEDERAL PRISONS ILLEGALLY.

☐ Pretrial detention'

Immigration detention'

Detainer

☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the ~~statute~~ maximum or improperly calculated under the sentencing guidelines)☐ Disciplinary proceedings☐ Other (explain):

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: BUREAU OF PRISONS IN CONJUNCTION WITH IMMIGRATION AUTHORITIES (ICE).

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): _____

PETITIONER IS CHALLENGING THE POSSIBILITY THAT THE BOP IN CONJUNCTION WITH THE IMMIGRATION AUTHORITIES (ICE) MAY REMOVE HIS EARNING TIME CREDITS (ETC) FROM HIS SENTENCE COMPUTATION. PETITIONER HAS BEEN GRANTED WITH SUCH CREDITS AT THIS MOMENT. PETITIONER REQUEST RESPECTFULLY FOR THIS HONORABLE COURT AN ORDER TO PROTECT HIS RIGHTS UNDER THE FSA ACT LAW. PETITIONER'S REQUEST TO BE PROTECTED FROM SUCH ACTION BY THE BOP AND ICE ACTIONS THAT HAS BEEN MADE ILLEGALLY.

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action**7. First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No ☒

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: PETITIONER DID NOT PRESENT ANY ADMINISTRATIVE REMEDY, BECAUSE HE IS BEING

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GRANTED WITH THE ETC (EARNING TIME CREDITS) AT THIS MOMENT. PETITIONER IS REQUESTING A PROTECTIVE ORDER FROM THE COURT TO PROTECT HIS CONSTITUTIONAL	RIGHTS UNDER THE LAW TO KEEP HIS ETC (EARNING TIME CREDITS GRANTED).
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8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

-Yes

NoX

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: DID NOT PRESENT 1ST APPEAL.**9. Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☒ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____

- (b) Date of the removal or reinstatement order: _____

- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☒ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: PETITIONER AVERS HE HAS EARNED SUBSTANTIAL AMOUNT OF FIRST STEP ACT ("FSA") EARNED TIME CREDIT ("ETC") 18 USC: 3624(a)(4) WHICH HAS BEEN GRANTED BY THE BOP EVENTHOUGH PETITIONER HAS A VALID IMMIGRATION DETAINER. (PLEASE SEE COMPUTATION DATA SHEET ATTACHED TO THIS PETITION).

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

PETITIONER HAS BEEN CLASSIFIED ELIGIBLE FOR FSA (EARNING TIME CREDITS) AS PETITIONER DOES NOT HAVE A FINAL DEPORTATION ORDER ISSUED BY A FEDERAL IMMIGRATION JUDGE.

(b) Did you present Ground One in all appeals that were available to you?

-Yes

No X

GROUND TWO: PETITIONER SHOULD BE ALLOW TO KEEP HIS EARNED TIME CREDITS (ETC) WITHOUT BEEN REMOVED BY THE BOP AND THE IMMIGRATION AUTHORITIES. AS THE CONSTITUTION OF THE UNITED IN HIS EQUAL PROTECTION CLAUSE STATES THE FOLLOWING: "EQUAL PROTECTION REFERS TO THE IDEA THAT A GOVERNMENTAL BODY MAY NOT DENY PEOPLE EQUAL PROTECTION OF ITS GOVERNING LAWS, THE GOVERNING BODY STATE MUST TREAT AN INDIVIDUAL IN THE SAME MANNER AS OTHERS IN SIMILAR CONDITIONS AND CIRCUMSTANCES".

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

PETITIONER HAS BEEN DEEMED ELIGIBLE AND GRANTED EARNING TIME CREDITS (ETC) BY THE BOP, EVENTHOUGH PETITIONER HAS A VALID DETAINER ISSUED BY THE IMMIGRATION AUTHORITIES.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Y

☒ No

es

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

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(b) Did you present Ground Three in all appeals that were available to you?

☐

Yes X- No

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GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐

Yes ' No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: TO ORDER THE BOP TO KEEP AND NOT REMOVE PETITIONER'S EARNING TIME CREDITS FROM MY

COMPUTATION SENTENCE AS I HAVE BEEN CLASSIFIED ELIGIBLE FOR THIS CREDITS, I DO NOT HAVE A FINAL IMMIGRATION ORDER OF REMOVAL OR DEPORTATION ISSUED BY AN IMMIGRATION JUDGE, THEREFORE PETITIONER RESPECTFULLY ASK THIS HONORABLE COURT TO ISSUED AN ORDER TO THE BOP TO PROTECT AND PRESERVE HIS RIGHTS FROM THE FSA (FIRST STEP ACT).

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Declaration Under Penalty of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

SEPTEMBER 05, 2024

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 09/05/2024

Andres Fdo Bucay R.
Is

Signature of Petitioner

Signature of Attorney or other authorized person, if any

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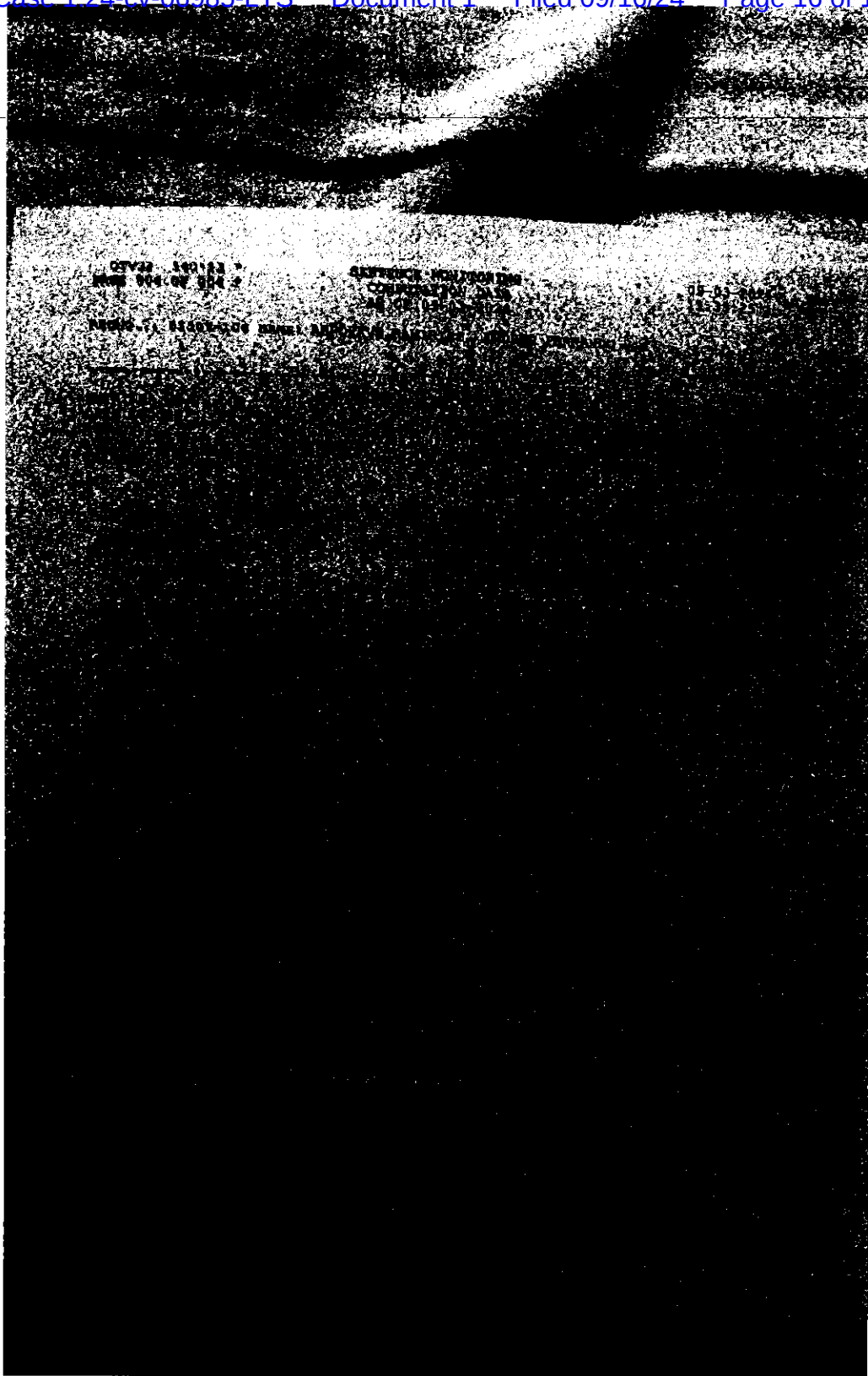
OTYGG 540*23 *
PAGE 002

SENTENCE MONITORING
COMPUTATION DATA
AS OF 09-02-2024

09-03-2023
11:38:25

RECNO : 01507-104 NAME: ARROYAVE RAMIREZ, ANDRES FERNANDO

CURRENT OBLIGATION NO 1010
OFFENSE CODE: 399 21-98: ATTEMPT & CONSPIRACY
OFFENSE 21-983 CONSPIRACY TO DISSEMINATE TRUE ALIENAGE OR MORE OF SOC
REVENUE IT WAS ORIGINALLY REPORTED TO THE FBI BY A SOURCE WITH



OTVG2 540*23 *
PAGE 001 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 09-03-2024

* 09-03-2024
* 11:39:25

REGNO...: 01507-104 NAME: ARROYAVE RAMIREZ, ANDRES FERNANDO

FBI NO.....: 426206VD3
ARSI.....: OTV/A-DES
UNIT.....: 3 GP
DETAINERS.....: YES

DATE OF BIRTH: 07-26-1988 AGE: 36

QUARTERS.....: E08-3230
NOTIFICATIONS: NO

FSA ELIGIBILITY STATUS IS- ELIGIBLE

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT

HOME DETENTION ELIGIBILITY DATE...: 05-17-2024

INMATE'S NEXT RELEASE FOR INMATE...: 11-17-2025 VIA SCT REL
WITH APPLIED FSA CREDITS...: 365 DAYS

INMATE IS PROPOSED FOR RELEASE...: 11-17-2024 VIA FSA REL

RELEASE AUDIT COMPLETED ON 09-03-2024 BY [REDACTED]

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and _____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

RECEIVED

24 SEP 10 PM 2:29

CLERK'S OFFICE
U.S. COURT OF APPEALS

ANDRES Fernando Acayave Ramirez
Reg 01507-104
FCI Otisville
Federal Correctional Institution
P.O. Box 1000 Otisville, NY
10963

CERTIFIED MAIL



9589 0710 5270 2125 9501 13

RDC 99



10007

TO: United States District Co
For The Southern District
New York Thurgood Marsh
United States Court House
Clerk of Court
40 Foley St New York,
NY 10007

DECEMBER